

FILED

OCT 18 2018

Clerk, U S District Court
District Of Montana
Billings

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACKSON BRYANT BAUGUS,

Defendant.

Cause No. CR 02-133-BLG-SPW

ORDER

On September 14, 2018, Defendant Baugus asked the Court to provide transcripts of his trial as well as the discovery his counsel received from the United States before trial. He explained that he is preparing an application to file a second or successive motion under 28 U.S.C. § 2255.

The Court denied his request. Baugus was referring to potential violations of *Giglio v. United States*, 405 U.S. 150 (1972), by former Assistant United States Attorney James Seykora. As the Court explained, the *Giglio* issue depends on whether AUSA Seykora withheld material exculpatory information from the defense. If he withheld information, it would not have been discussed at trial and so would not be shown in the trial transcript. *See* Order (Doc. 276) at 1–2.

Baugus now moves for reconsideration, again asking for the trial transcripts and the discovery and also asking for the jury instructions. As before, the docket

of this case shows that AUSA Seykora represented the United States at trial, *see*, *e.g.*, Minutes (Doc. 80), and that the jury was instructed on informant or accomplice testimony, *see* Jury Instrs. (Doc. 88 at 11–13). That information, plus the letter from the United States that Baugus says he has in his possession, *see* Mot. to Reconsider (Doc. 277) at 1,¹ has sufficed to support other *pro se* applications to the Court of Appeals. *See, e.g.*, Application (Doc. 832-1) at 3, 11–14; Order (Doc. 832-1) at 1, *Fromboise v. United States*, Nos. 18-70676 & 18-71088 (9th Cir. Aug. 28, 2018); Application (Doc. 747) at 2–3, 9; Order (Doc. 747-2) at 1, *Ulloa v. United States*, No. 17-71336 (9th Cir. July 17, 2017). The Court does not have the discovery produced by the United States to defense counsel, nor does Baugus need it at this time.

Baugus is advised that the timeliness of his action on the United States’ letter, dated February 11, 2016, is already questionable. (Baugus has not submitted the letter, but the Court is familiar with it.) Further unnecessary delay of his application to the appellate court is unlikely to help him.

If the Court of Appeals grants Baugus leave to proceed with a second or successive motion under 28 U.S.C. § 2255, this Court will consider appointing new counsel to represent him.

¹ The Court notes that the witnesses referred to on the second page of Baugus’s motion did not testify at Baugus’s trial.

Accordingly, IT IS HEREBY ORDERED that Baugus's motion for reconsideration (Doc. 277) is DENIED.

The clerk will include the relevant jury instructions, *see* Jury Instrs. (Doc. 88 at 11–13), with Baugus's service copy of this Order.

DATED this 18th day of October, 2018.



Susan P. Watters
United States District Court